

AMENDED IN ASSEMBLY SEPTEMBER 6, 2013

AMENDED IN ASSEMBLY JULY 1, 2013

AMENDED IN SENATE APRIL 25, 2013

AMENDED IN SENATE MARCH 14, 2013

SENATE BILL

No. 150

Introduced by Senator Lara

(Coauthors: Assembly Members Alejo, Ian Calderon, Fong, and Garcia)

January 31, 2013

An act to ~~add Section 76140.1 to~~ *amend Section 76140 of the Education Code, relating to pupils.*

LEGISLATIVE COUNSEL'S DIGEST

SB 150, as amended, Lara. Pupils: concurrent enrollment in secondary school and community college: nonresident tuition exemption.

Existing law authorizes the governing board of a school district to allow pupils whom the school district has determined would benefit from advanced scholastic or vocational work to attend a community college as special part-time or full-time students, as specified. Existing law authorizes community college governing boards to exempt these special part-time students from paying the \$46 per unit per semester enrollment fee.

This bill would authorize a community college district to exempt a pupil attending a community college as a special part-time student from paying nonresident tuition at the community college.

This bill would incorporate changes to this provision proposed by both this bill and SB 141, contingent on the prior enactment of that bill, as specified.

Vote: majority. Appropriation: no. Fiscal committee: no.
State-mandated local program: no.

The people of the State of California do enact as follows:

1 *SECTION 1. Section 76140 of the Education Code, as added*
2 *by Section 66 of Chapter 38 of the Statutes of 2012, is amended*
3 *to read:*

4 76140. (a) A community college district may admit and shall
5 charge a tuition fee to nonresident students. The district may
6 exempt from all or parts of the fee any person described in
7 paragraph (1), (2), ~~or~~ (3), *or* (4):

8 (1) All nonresidents who enroll for six or fewer units.
9 Exemptions made pursuant to this paragraph shall not be made on
10 an individual basis.

11 (2) Any nonresident who is both a citizen and resident of a
12 foreign country, if the nonresident has demonstrated a financial
13 need for the exemption. Not more than 10 percent of the
14 nonresident foreign students attending any community college
15 district may be so exempted. Exemptions made pursuant to this
16 paragraph may be made on an individual basis.

17 (3) (A) A student who, as of August 29, 2005, was enrolled,
18 or admitted with an intention to enroll, in the fall term of the
19 2005–06 academic year in a regionally accredited institution of
20 higher education in Alabama, Louisiana, or Mississippi, and who
21 could not continue his or her attendance at that institution as a
22 direct consequence of damage sustained by that institution as a
23 result of Hurricane Katrina.

24 (B) The chancellor shall develop guidelines for the
25 implementation of this paragraph. These guidelines shall include
26 standards for appropriate documentation of student eligibility to
27 the extent feasible.

28 (C) This paragraph shall apply only to the 2005–06 academic
29 year.

30 (4) *A special part-time student admitted pursuant to Section*
31 *76001.*

32 (b) A district may contract with a state, a county contiguous to
33 California, the federal government, or a foreign country, or an
34 agency thereof, for payment of all or a part of a nonresident
35 student's tuition fee.

1 (c) Nonresident students shall not be reported as full-time
2 equivalent students (FTES) for state apportionment purposes,
3 except as provided by subdivision (j) or another statute, in which
4 case a nonresident tuition fee may not be charged.

5 (d) The nonresident tuition fee shall be set by the governing
6 board of each community college district not later than February
7 1 of each year for the succeeding fiscal year. The governing board
8 of each community college district shall provide nonresident
9 students with notice of nonresident tuition fee changes during the
10 spring term before the fall term in which the change will take
11 effect. Nonresident tuition fee increases shall be gradual, moderate,
12 and predictable. The fee may be paid in installments, as determined
13 by the governing board of the district.

14 (e) (1) The fee established by the governing board pursuant to
15 subdivision (d) shall represent for nonresident students enrolled
16 in 30 semester units or 45 quarter units of credit per fiscal year
17 one or more of the following:

18 (A) The amount that was expended by the district for the
19 expense of education as defined by the California Community
20 College Budget and Accounting Manual in the preceding fiscal
21 year increased by the projected percent increase in the United
22 States Consumer Price Index as determined by the Department of
23 Finance for the current fiscal year and succeeding fiscal year and
24 divided by the FTES (including nonresident students) attending
25 in the district in the preceding fiscal year. However, if for the
26 district's preceding fiscal year FTES of all students attending in
27 the district in noncredit courses is equal to, or greater than, 10
28 percent of the district's total FTES attending in the district, the
29 district may substitute the data for expense of education in grades
30 13 and 14 and FTES in grades 13 and 14 attending in the district.

31 (B) The expense of education in the preceding fiscal year of all
32 districts increased by the projected percent increase in the United
33 States Consumer Price Index as determined by the Department of
34 Finance for the fiscal year and succeeding fiscal year and divided
35 by the FTES (including nonresident students) attending all districts
36 during the preceding fiscal year. However, if the amount calculated
37 under this paragraph for the succeeding fiscal year is less than the
38 amount established for the current fiscal year or for any of the past
39 four fiscal years, the district may set the nonresident tuition fee at
40 the greater of the current or any of the past four-year amounts.

1 (C) An amount not to exceed the fee established by the
2 governing board of any contiguous district.

3 (D) An amount not to exceed the amount that was expended by
4 the district for the expense of education, but in no case less than
5 the statewide average as set forth in subparagraph (B).

6 (E) An amount no greater than the average of the nonresident
7 tuition fees of public community colleges of no less than 12 states
8 that are comparable to California in cost of living. The
9 determination of comparable states shall be based on a composite
10 cost-of-living index as determined by the United States Department
11 of Labor or a cooperating government agency.

12 (2) The additional revenue generated by the increased
13 nonresident tuition permitted under the amendments made to this
14 subdivision during the 2009–10 Regular Session shall be used to
15 expand and enhance services to resident students. In no event shall
16 the admission of nonresident students come at the expense of
17 resident enrollment.

18 (f) The governing board of each community college district also
19 shall adopt a tuition fee per unit of credit for nonresident students
20 enrolled in more or less than 15 units of credit per term by dividing
21 the fee determined in subdivision (e) by 30 for colleges operating
22 on the semester system and 45 for colleges operating on the quarter
23 system and rounding to the nearest whole dollar. The same rate
24 shall be uniformly charged nonresident students attending any
25 terms or sessions maintained by the community college. The rate
26 charged shall be the rate established for the fiscal year in which
27 the term or session ends.

28 (g) Any loss in district revenue generated by the nonresident
29 tuition fee shall not be offset by additional state funding.

30 (h) Any district that has fewer than 1,500 FTES and whose
31 boundary is within 10 miles of another state that has a reciprocity
32 agreement with California governing student attendance and fees
33 may exempt students from that state from the mandatory fee
34 requirement described in subdivision (a) for nonresident students.

35 (i) Any district that has more than 1,500, but less than 3,001,
36 FTES and whose boundary is within 10 miles of another state that
37 has a reciprocity agreement with California governing student
38 attendance and fees may, in any one fiscal year, exempt up to 100
39 FTES from that state from the mandatory fee requirement described
40 in subdivision (a) for nonresident students.

(j) The attendance of nonresident students who are exempted pursuant to subdivision (h) or (i), or pursuant to paragraph (3) of subdivision (a), from the mandatory fee requirement described in subdivision (a) for nonresident students may be reported as resident FTES for state apportionment purposes. Any nonresident student reported as resident FTES for state apportionment purposes pursuant to subdivision (h) or (i) shall pay a per unit fee that is three times the amount of the fee established for residents pursuant to Section 76300. That fee is to be included in the FTES adjustments described in Section ~~76330~~ 76300 for purposes of computing apportionments.

~~(k) This section shall become operative on July 1, 2013.~~

SEC. 1.5. Section 76140 of the Education Code, as added by Section 66 of Chapter 38 of the Statutes of 2012, is amended to read:

76140. (a) A community college district may ~~admit~~ admit, and shall charge a tuition fee ~~to to~~, nonresident ~~students. The~~ students, *except that a community college district may exempt from all or parts of the fee any person described in paragraph (1), (2), ~~or (3)~~ (3), or (4), and shall exempt from all of the fee any person described in paragraph (5):*

(1) All nonresidents who enroll for six or fewer units. Exemptions made pursuant to this paragraph shall not be made on an individual basis.

(2) Any nonresident who is both a citizen and resident of a foreign country, if the nonresident has demonstrated a financial need for the exemption. Not more than 10 percent of the nonresident foreign students attending any community college district may be so exempted. Exemptions made pursuant to this paragraph may be made on an individual basis.

(3) (A) A student who, as of August 29, 2005, was enrolled, or admitted with an intention to enroll, in the fall term of the 2005–06 academic year in a regionally accredited institution of higher education in Alabama, Louisiana, or Mississippi, and who could not continue his or her attendance at that institution as a direct consequence of damage sustained by that institution as a result of Hurricane Katrina.

(B) The chancellor shall develop guidelines for the implementation of this paragraph. These guidelines shall include

1 standards for appropriate documentation of student eligibility to
2 the extent feasible.

3 (C) This paragraph shall apply only to the 2005–06 academic
4 year.

5 (4) *A special part-time student admitted pursuant to Section*
6 *76001.*

7 (5) *A nonresident student who is a United States citizen who*
8 *resides in a foreign country, if that nonresident meets all of the*
9 *following requirements:*

10 (A) *Demonstrates a financial need for the exemption.*

11 (B) *Has a parent or guardian who has been deported or was*
12 *permitted to depart voluntarily under the federal Immigration and*
13 *Nationality Act in accordance with Section 1229c of Title 8 of the*
14 *United States Code. The student shall provide documents from the*
15 *United States Citizenship and Immigration Services evidencing*
16 *the deportation or voluntary departure of his or her parent or*
17 *guardian.*

18 (C) *Moved abroad as a result of the deportation or voluntary*
19 *departure specified in subparagraph (B).*

20 (D) *Lived in California immediately before moving abroad. The*
21 *student shall provide information and evidence that demonstrates*
22 *the student previously lived in California.*

23 (E) *Attended a public or private secondary school, as described*
24 *in Sections 52 and 53, in the state for three or more years. The*
25 *student shall provide documents that demonstrate his or her*
26 *secondary school attendance.*

27 (F) *Upon enrollment, will be in his or her first academic year*
28 *as a matriculated student in California public higher education,*
29 *as that term is defined in subdivision (a) of Section 66010, will be*
30 *living in California, and will file an affidavit with the institution*
31 *stating that he or she intends to establish residency in California*
32 *as soon as possible.*

33 (b) A district may contract with a state, a county contiguous to
34 California, the federal government, or a foreign country, or an
35 agency thereof, for payment of all or a part of a nonresident
36 student's tuition fee.

37 (c) Nonresident students shall not be reported as full-time
38 equivalent students (FTES) for state apportionment purposes,
39 except as provided by subdivision (j) or another statute, in which
40 case a nonresident tuition fee may not be charged.

(d) The nonresident tuition fee shall be set by the governing board of each community college district not later than February 1 of each year for the succeeding fiscal year. The governing board of each community college district shall provide nonresident students with notice of nonresident tuition fee changes during the spring term before the fall term in which the change will take effect. Nonresident tuition fee increases shall be gradual, moderate, and predictable. The fee may be paid in installments, as determined by the governing board of the district.

(e) (1) The fee established by the governing board pursuant to subdivision (d) shall represent for nonresident students enrolled in 30 semester units or 45 quarter units of credit per fiscal year one or more of the following:

(A) The amount that was expended by the district for the expense of education as defined by the California Community College Budget and Accounting Manual in the preceding fiscal year increased by the projected percent increase in the United States Consumer Price Index as determined by the Department of Finance for the current fiscal year and succeeding fiscal year and divided by the FTES (including nonresident students) attending in the district in the preceding fiscal year. However, if for the district's preceding fiscal year FTES of all students attending in the district in noncredit courses is equal to, or greater than, 10 percent of the district's total FTES attending in the district, the district may substitute the data for expense of education in grades 13 and 14 and FTES in grades 13 and 14 attending in the district.

(B) The expense of education in the preceding fiscal year of all districts increased by the projected percent increase in the United States Consumer Price Index as determined by the Department of Finance for the fiscal year and succeeding fiscal year and divided by the FTES (including nonresident students) attending all districts during the preceding fiscal year. However, if the amount calculated under this paragraph for the succeeding fiscal year is less than the amount established for the current fiscal year or for any of the past four fiscal years, the district may set the nonresident tuition fee at the greater of the current or any of the past four-year amounts.

(C) An amount not to exceed the fee established by the governing board of any contiguous district.

1 (D) An amount not to exceed the amount that was expended by
2 the district for the expense of education, but in no case less than
3 the statewide average as set forth in subparagraph (B).

4 (E) An amount no greater than the average of the nonresident
5 tuition fees of public community colleges of no less than 12 states
6 that are comparable to California in cost of living. The
7 determination of comparable states shall be based on a composite
8 cost-of-living index as determined by the United States Department
9 of Labor or a cooperating government agency.

10 (2) The additional revenue generated by the increased
11 nonresident tuition permitted under the amendments made to this
12 subdivision during the 2009–10 Regular Session shall be used to
13 expand and enhance services to resident students. In no event shall
14 the admission of nonresident students come at the expense of
15 resident enrollment.

16 (f) The governing board of each community college district also
17 shall adopt a tuition fee per unit of credit for nonresident students
18 enrolled in more or less than 15 units of credit per term by dividing
19 the fee determined in subdivision (e) by 30 for colleges operating
20 on the semester system and 45 for colleges operating on the quarter
21 system and rounding to the nearest whole dollar. The same rate
22 shall be uniformly charged nonresident students attending any
23 terms or sessions maintained by the community college. The rate
24 charged shall be the rate established for the fiscal year in which
25 the term or session ends.

26 (g) Any loss in district revenue generated by the nonresident
27 tuition fee shall not be offset by additional state funding.

28 (h) Any district that has fewer than 1,500 FTES and whose
29 boundary is within 10 miles of another state that has a reciprocity
30 agreement with California governing student attendance and fees
31 may exempt students from that state from the mandatory fee
32 requirement described in subdivision (a) for nonresident students.

33 (i) Any district that has more than 1,500, but less than 3,001,
34 FTES and whose boundary is within 10 miles of another state that
35 has a reciprocity agreement with California governing student
36 attendance and fees may, in any one fiscal year, exempt up to 100
37 FTES from that state from the mandatory fee requirement described
38 in subdivision (a) for nonresident students.

39 (j) The attendance of nonresident students who are exempted
40 pursuant to subdivision (h) or (i), or pursuant to paragraph (3) *or*

(5) of subdivision (a), from the mandatory fee requirement described in subdivision (a) for nonresident students may be reported as resident FTES for state apportionment purposes. Any nonresident student reported as resident FTES for state apportionment purposes pursuant to subdivision (h) or (i) shall pay a per unit fee that is three times the amount of the fee established for residents pursuant to Section 76300. That fee is to be included in the FTES adjustments described in Section ~~76330~~ 76300 for purposes of computing apportionments.

~~(k) This section shall become operative on July 1, 2013.~~

SEC. 2. Section 1.5 of this bill incorporates amendments to Section 76140 of the Education Code proposed by both this bill and Senate Bill 141. It shall only become operative if (1) both bills are enacted and become effective on or before January 1, 2014, (2) each bill amends Section 76140 of the Education Code, and (3) this bill is enacted after Senate Bill 141, in which case Section 1 of this bill shall not become operative.

~~SECTION 1. Section 76140.1 is added to the Education Code, to read:~~

~~76140.1. Notwithstanding Section 76140, a community college district may exempt a special part-time student admitted pursuant to Section 76001 from all or part of the tuition fee charged to nonresident students pursuant to Section 76140.~~